

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KATHLEEN BICKINGS,
Individually and on Behalf of
All Others Similarly Situated
Plaintiffs

v.

NHS-ALLEGHENY VALLEY
SCHOOL, LLC, and NHS HUMAN
SERVICES
Defendants

: **CIVIL ACTION**
:
: **NO. 13-2894**
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O R D E R

AND NOW, this 27th day of January 2014, upon consideration of Defendant's *motion to dismiss* the amended complaint for failure to state a claim upon which relief can be granted, filed pursuant to Federal Rule of Civil Procedure (Rule) 12(b)(6) [ECF 15], Plaintiff's response in opposition thereto [ECF 17], and the amended complaint, consistent with the memorandum opinion filed on this date, it is hereby **ORDERED** that Defendant's motion is **GRANTED**, *in part*, and

- a. Count I of the amended complaint which asserts claims under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, is **DISMISSED**, without prejudice. Plaintiff has leave to file a second amended complaint within ten (10) days of the date of this Order consistent with the Court's memorandum. Failure to do so will result in this matter being dismissed in its entirety, with prejudice.
- b. Count II of the amended complaint which asserts a claim under Pennsylvania's Whistleblower Law, 42 Pa. Stat. Ann. § 1421, *et seq.* is **DISMISSED** with prejudice.

BY THE COURT:


NITZA I. QUIÑONES ALEJANDRO, J.